UNITED
NATIONS

CCPR

International Covenant
on Civil and
Political Rights

Distr.
GENERAL

CCPR/C/74/Add.2
18 May 1994

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Initial reports of States parties due in 1992

Addendum

NEPAL

[30 March 1994]

IMPLEMENTATION OF SPECIFIC RIGHTS UNDER THE COVENANT*

Right to self-determination (art. 1)

1. After the restoration of multi-party democracy in Nepal, the faith and commitment of Nepal in protecting and consolidating the life, liberty and pursuit of happiness of the people have been crystallized in various articles of the Constitution, particularly articles 11 to 23. The preamble asserts that the source of sovereign authority of independent and sovereign Nepal is inherent in the people. The guarantee of the basic human rights to every citizen of Nepal is one of the basic and unamendable features of the political system. Article 3 of the Constitution explicitly stipulates that the sovereignty of Nepal is vested in the Nepalese people. Moreover, as a

* With regard to that part of the report concerned with the general information to be submitted in compliance with the consolidated guidelines for the initial part of reports of States parties to be submitted under the various international human rights instruments, including the Covenant (HRI/CORE/1, annex), members of the Committee are referred to the core document of Nepal (HRI/CORE/1/Add.42).

sovereign State, Nepal has the right to enter into relations with other States, conclude treaties with them, exchange diplomatic and consular representatives, and participate in the work of international organizations. Nepal is a member of the United Nations, its specialized agencies, Non-aligned Movement, the Group of 77 and various other international as well as regional organizations.

2. As an active member of the United Nations, Nepal has been playing an active and dynamic role in formulating international legal documents governing such legal principles and prescriptions as the sovereign equality of States, the non-use or threat of force, territorial sovereignty, the peaceful settlement of disputes, non-intervention and interference in domestic affairs of States, respect for human rights and fundamental freedoms, equality of rights, the right of people to determine their own destiny, cooperation and friendly relations among States and pacta sunt survanda under international law. Nepal is active in all national and international forums where the right of peoples to self-determination is discussed. It has advocated the immediate granting of this right to people who are still under the domain of colonialism.

Equality of rights and protection of rights (art. 2)

3. The equality of rights of citizens is a principle of the Constitution. All branches of current legislation are devoted to giving it a concrete form. Article 11 of the Constitution stipulates equality before the law and equal protection of the law as stated in article 2 of the Covenant. Article 11 (2) of the Constitution says that there shall be no discrimination against any citizen in the application of general laws on grounds of religion, race, sex, caste, tribe or ideological conviction. However, special legal provisions may be made for the protection and advancement of the interests of women, children, the aged or those who are physically or mentally incapacitated or those who belong to a class which is economically, socially or educationally backward.

4. Similarly, article 11 (4) provides that no person shall, on the basis of caste, be discriminated against as untouchable, be denied access to any public place, or be deprived of the use of public utilities. Any contravention of this provision is to be made punishable by law and to this effect section 10 A of the chapter on Adal (public order) of Muluki Ain (the law of realm) provides for punishment in this case of one year imprisonment or 3,000 rupees fine or both.

5. Section 3 of the Civil Liberties Act, 2012 B.S. (1954 A.D.) (hereinafter referred to as the Civil Liberties Act) deals with equality before the law and equal protection of the law. Section 4 prohibits any restrictions against any citizen on the basis of religion, race, sex, caste, or any of these, in appointing to civil posts.

6. Even in times of emergency - declared under article 115 of the Constitution - the right to equality stipulated in article 11 of the Constitution may not be suspended.

7. Nepal has adopted the necessary constitutional and legislative measures to give effect to the rights recognized in the Covenant. Any person whose rights and freedoms as recognized in the Covenant are violated has an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity. Such person shall have a judicial remedy by the competent judicial organ. Article 88 of the Constitution reads:

> "(1) Any Nepali Citizen may file a petition in the Supreme Court to have any law or any part thereof declared void on the ground of inconsistency with this Constitution because it imposes an unreasonable restriction on the enjoyment of the fundamental rights conferred by this Constitution or on any other ground, and extra-ordinary power shall rest with the Supreme Court to declare that law as void either ab initio or from the date of its decision if it appears that the law in question is inconsistent with the Constitution."
>
> "(2) The Supreme Court shall, for the enforcement of the fundamental rights conferred by this Constitution, for the enforcement of any other legal right for which no other remedy has been provided or for which the remedy even though provided appears to be inadequate or ineffective, or for the settlement of any constitutional or legal question involved in any dispute of public interest or concern, have the extra-ordinary power to issue necessary and appropriate orders to enforce such rights or settle the dispute. For these purposes, the Supreme Court may, with a view to imparting full justice and providing the appropriate remedy, issue appropriate orders and writs including the writs of habeas corpus, mandamus, certiorari, prohibition and quo warranto..."

Equality of rights between men and women (art. 3)

8. The Nepalese Constitution and legislation have paid considerable attention to providing women with special privileges ensuring their right to work, to promote and to participate in public life and to giving them a possibility equal to that enjoyed by men of making use of those rights. The Constitution, under the above-mentioned article 11, has ensured the equal right of men and women to enjoy all civil and political rights set forth in the Covenant.

9. Under article 26 (7) of the Constitution, the State is directed to pursue a policy of making the female population participate to a greater extent in the task of national development by making special provisions for their education, health and employment; and under article 26 (9) the State is directed to pursue such policies in matters of education, health and social security of orphans, helpless women, the aged, the disabled and incapacitated persons as will ensure their protection and welfare. Similarly, article 114 provides that for the purposes of elections to the House of Representatives, at least 5 per cent of the total number of candidates contesting an election from any organization or party must be women. This provision is one of the conditions to be fulfilled by any political party or organization in order to qualify for registration under the Constitution.

10. Sections 3, 4, and 5 of the Civil Liberties Act have provided, inter alia, the equality of rights between men and women. Thus, the Constitution and legislation have paid due attention to making it easier for women to effectively exercise their legally recognized rights, equal to those of men, to work, to have an education and to take part in public, political, cultural and other social activities by improving their conditions of life and work by extending help to families with children, etc.

Civil and political rights in time of public emergency (art. 4)

11. Article 115 of the Constitution deals with emergency situations of the State. When a grave emergency arises in regard to the sovereignty or integrity of the Kingdom of Nepal or the security of any part thereof, whether by war, external aggression, armed rebellion or extreme economic disarray, His Majesty may, by proclamation, declare or order a state of emergency in respect of the whole of the Kingdom of Nepal or of any specified part thereof. This declaration may be prolonged for one year if the House of Representatives deems it necessary. Freedom of opinion and expression, freedom to assemble peacefully and without arms, freedom to move throughout the Kingdom and reside in any part thereof, provision against censorship of news items, articles or other reading materials, the rights against preventive detention, to information, to property, to privacy and to constitutional remedy may be suspended. However, some non-derogable rights, particularly the right to equality, the remedy of habeas corpus, the rights regarding criminal justice, cultural and educational rights, the right to religion, the right against exploitation and right against exile may not be affected. This constitutional provision explicitly fulfils the spirit of article 4 of the Covenant.

Safeguard clauses (art. 5)

12. The Constitution and other Nepalese legislation make no provisions imposing any restriction upon or derogation of any of the fundamental human rights recognized or existing in the Constitution or legislation on the pretext that the Covenant does not recognize such rights or that it recognizes them to a lesser extent. The fundamental rights recognized in part III of the Covenant conform to the general principles of the Constitution and existing Nepalese law and if any group or individual should wilfully abuse the provisions of the Covenant, they would become subject to the provisions of the law of Nepal.

Right to life (art. 6)

13. The Constitution guarantees that every citizen has an inherent right to life. Article 12 (1) of the Constitution explicitly provides that no person shall be deprived of his personal liberty save in accordance with the law, and no law shall be made which provides for capital punishment. As the death penalty has been abolished by the Constitution, no death sentence may be carried out in the territory of the Kingdom.

14. Except for some serious criminal offences like high treason, attempts on the life of the King or his consort, terrorism and some other serious crimes, capital punishment was not prescribed under the legal system in the country even during the Panchayat era (1961-1990). The fact that capital punishment

was provided for in the law at that time was more significant than the actual enforcement of such a sentence, and in Nepal capital punishment is a most rare phenomenon. No death penalty has been carried out since two Nepali Congress workers, Bhim Narayan Shrestha and Yagya Bahadur Karki, were executed in 1979.

Prohibition against subjecting people to torture or to cruel, inhuman or degrading treatment or punishment (art. 7)

15. Article 14 (4) of the Constitution reads: "No person who is detained during investigation or for trial or for any other reason shall be subjected to physical or mental torture, nor shall be given any cruel, inhuman or degrading treatment. Any person so treated shall be compensated in a manner as determined by law."

16. Nepalese legislation has consistently prohibited torture or cruel, inhuman or degrading treatment or punishment. In international forums Nepal has been speaking for active global cooperation against torture. On 14 May 1991 Nepal became a party, by accession, to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

17. Hence, the above-mentioned constitutional provision provides a substantial safeguard against torture and other illegal methods of investigation. Besides, a bill to provide compensation to the victims of torture has been recently tabled in Parliament and is now under consideration by the House of Representatives.

Prohibition of slavery, the slave trade or forced labour (art. 8)

18. No slavery, slave trade or institutions or practices similar to slavery are found in Nepal. Nepalese law has prohibited forced labour or servitude. Traffic in human beings, slavery, serfdom or forced labour in any form are prohibited by article 20 of the Constitution. Every citizen is provided with the right against any form of exploitation. However, compulsory service prescribed by law for public purposes is an exception to this provision.

19. The chapter "Relating to trafficking in persons" of the Muluki Ain prohibits the act of selling persons and has declared such an act to be a criminal offence. Section 1 of the chapter prohibits taking a person out of the territory of Nepal and/or to sell him or her. Similarly, the Trafficking in Persons (Control) Act, 2043 provides as punishment for such an act imprisonment for up to 15 years. Section 3 of the chapter prohibits making anyone a slave, serf or anything of that kind. The offenders to this law are liable to imprisonment for 3 to 10 years, and the victim is also entitled to compensation from the offender.

20. Similarly, the chapter relating to "Wages" of the Muluki Ain provides that no one can be employed in any job without his or her consent. Except as otherwise settled by any contract and arrangement, to employ anybody without providing him with reasonable wages is illegal. The perpetrator of this offence is liable to pay a maximum fine of 100 rupees and the victim is entitled to receive the wages for his work done.

21. The Constitution aims at establishing an economic system based on social justice by preventing economic exploitation of any class or individual. Every citizen is free to practise any profession or to carry on any occupation, industry or trade. One is free to choose a profession in accordance with one's choice, abilities, training and education.

The right to freedom and security of person (art. 9)

22. Every citizen has the right to liberty and security of person. Article 14 (5) of the Constitution provides that no person who is arrested shall be detained without being informed, as soon as possible, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice. Moreover, every person who is arrested and detained in custody shall be produced before a judicial authority within a period of 24 hours after such arrest, excluding the time required for the journey from the place of arrest to such authority, and no such person shall be detained in custody beyond the said period except on the order of such authority. Similarly, section 15 of the Civil Liberties Act provides that no person shall be detained without being informed as to the reason for detention. "Right to be informed" is strictly followed in legal and judicial practice.

23. Anyone arrested or detained on a criminal charge is brought promptly before a competent court or any other authority authorized by law to exercise judicial power. Every citizen has in such a case the right to seek appellate jurisdiction in the Appellate Court or move writ petition in the Supreme Court or the Appellate Court to test the legality of his detention. The writ of habeas corpus has been an effective remedy against illegal detention in the realm.

24. The right against preventive detention is also a fundamental right of citizens guaranteed by the Constitution. Article 15 of the Constitution provides that no person shall be held under preventive detention unless there is sufficient ground or an immediate threat to the sovereignty, integrity or law and order situation of the Kingdom of Nepal. Moreover, the Constitution in article 15 (2) explicitly provides that any person held under preventive detention shall, if his detention was contrary to law or in bad faith, has the right to be compensated in a manner prescribed by law. The Public Security Act, 2046, a law made for this purpose, in section 3.1 provides that if a person poses an immediate threat to the sovereignty, territorial integrity or the law and order situation of the country, he can be held, by an order of the Chief District Officer, in preventive detention for a specific time and in a specific place. This threat must be demonstrated with due reason and sufficient ground. But under section 12 A, if a person is held under detention in an illegal manner or with a mala fides intention, he is entitled to have reasonable compensation by a decree of a law court for such illegal detention.

The right of persons deprived of their liberty to be treated with humanity (art. 10)

25. Nepal is a party to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. The Nepalese penal system is based mainly on reformative theory and Nepalese legislation has paid substantial attention to reforming the convicted persons and rehabilitating them. For example, section 41 A of chapter on "Punishment" of the Muluki Ain provides that so long as the convicted person personally submits himself to the law court and becomes ready to pay a fine or undergo imprisonment in accordance with the judgement, 20 per cent of that punishment may be reduced by the court. The Prisons Act, 2019 (1962 A.D.) stipulates legal provisions concerning the process of keeping criminals in prison, the treatment therein and the facilities thereof. These provisions are aimed at providing criminals with humanitarian treatment. Section 6 of the same Act stipulates that males and females in custody and in prison, and criminals in civil and criminal cases are to be kept separately. Section 8 deals with the status and maintenance of minors in prison. Section 10 prohibits the forced labour of prisoners; however, any act can provide this in order to enhance the economic status and reformation of the prisoners. Section 12 provides that the female prisoner who is six months' pregnant may be released on bail, except for female criminals convicted of serious crimes such as sedition or homicide. Prison personnel violating the provisions of the Act or failing to perform the duties set forth in the Act are liable to punishment under sections 20, 22, 24 and 25 of the Act.

Prohibition of imprisonment on the ground of inability to fulfil a contractual liability (art. 11)

26. Nepalese legislation makes no provision for imprisonment on the ground of inability to fulfil a contractual obligation. Such cases have never been brought before the courts.

Freedom of movement and choice of residence: right to leave any country (art. 12)

27. Nepalese citizens enjoy freedom of movement, free choice of residence and other rights provided for under article 12 of the Covenant. Article 12 of the Constitution provides that every citizen shall have freedom to move throughout the Kingdom and reside in any part thereof. Any Nepalese citizen is free to enter the country.

28. However, article 12.2 (4) of the Constitution provides that reasonable restrictions may be imposed on this right, by law if so warranted, to maintain harmonious relations between peoples of various castes, tribes or communities. Thus, this provision substantially complies with the provisions of article 12 (3) of the Covenant.

Right of an alien not to be expelled unlawfully (art. 13)

29. Nepalese legislation pays considerable attention to the rights of aliens. Section 3 of the Immigration Act. 2049 (1992 A.D.) provides that no foreigner can enter or reside in Nepal without obtaining a visa. Section 6 authorizes

personnel appointed by an Immigration Officer or the Director General of the Department of Immigration may, at any time or place, scrutinize or seize the documents relating to the entrance, presence or departure of an alien. Section 5 prohibits aliens from using or making use of fraudulent passports or visas and from stating false particulars including name, age and nationality. According to section 8, an Immigration Officer can initiate an investigation into offenses relating to immigration on the basis of information received, directly or indirectly, from any person. In this regard, he can use the same powers as may be used by the police regarding government cases.

30. Section 9 stipulates that after completing that investigation the Immigrant Officer submits a report to the Director General, who, after following due procedure and with the consent of His Majesty's Government, can make a decision to expel the alien from the territory of Nepal. Under section 11 any alien aggrieved by such a decision can invoke the jurisdiction of the Appellate Court and is entitled to file a petition of appeal within 35 days of the decision in that court.

31. Pursuant to article 13 of the Covenant, an alien found entering the territory of Nepal unlawfully may only be expelled in pursuance of a decision reached in accordance with law; he is allowed to submit arguments against his expulsion under the principle of natural justice followed strictly by the judicial system, and to have his case reviewed by the competent court.

Equality of all citizens before the courts: right to a fair hearing (art. 14)

32. All proceedings in the law courts, except those deemed prejudicial to the parties, are open. No system of in camera trial is prevalent in the judicial system.

33. Under the Judicial Administration Act. 2048 (1991 A.D.) each and every citizen has a right to invoke the jurisdiction of the concerned District Court (Trial Court) in case of violation of his or her legal rights. The parties to a case have a right of first appeal. Most importantly, under article 88 of the Constitution, any Nepalese citizen may file a petition in the Supreme Court to have any law or any part thereof declared void on the ground of inconsistency with the Constitution. For the violation of any legal right conferred by the Civil Liberties Act, an aggrieved person may file a petition in the concerned Appellate Court under section 17 of that Act. The Appellate Court may, in turn, issue an order of injunction or a writ of mandamus or habeas corpus to that effect.

34. Hence, the Constitution, the Judicial Administration Act, the Civil Liberties Act and other Nepalese legislation provide Nepalese citizens with the right to appropriate recourse before the courts. Citizens are entitled to defend themselves before the courts against any unlawful act perpetrated by a State organ or any of its officials, and against any encroachment upon their honour, dignity, life, health, personal freedom or property and other rights.

35. It has already been mentioned that equality before the law or equal protection of the law is a fundamental right of the citizen or person, as the case may be. The right to equality may not be restricted in any manner except

in the case of the proviso to article 11 (3). Article 14 of the Constitution contains an extremely important stipulation in it guarantees suspects and accused persons the right to defence. This is ensured through the attendance of a defence lawyer from the moment one is detained, arrested or charged. In pursuance of article 14 of the Covenant, article 26(14) of the Constitution stipulates that the State shall, in order to secure justice for all, pursue a policy of providing free legal aid to indigent persons for their legal representation in keeping with the principle of the Rule of Law.

36. Similarly, section 30 of the chapter on "Court Procedure" (Adalati Bandobast) of the Muluki Ain, for the purpose of realizing and consolidating the concept of natural justice in the course of settlement of disputes or hearing a case, provides that no judge can hear and decide a case involving his blood relatives.

37. Under the law of Nepal an accused person is considered innocent until his guilt is established and is not compelled to be a witness against himself.

Right vis-à-vis no crime without law (art. 15)

38. Under the law of Nepal no one is guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under law, at the time when it was committed.

39. Article 14 of the Constitution stipulates that no person shall be punished for an act which was not punishable by law when the act was committed, nor shall any person be subjected to a punishment greater than that prescribed by the law in force at the time of the commission of the offence.

40. Nepalese legislation has strictly followed the recognized principle of criminal justice - as enumerated in article 15 of the Covenant - that no substantive laws are to be enacted having ex post facto effect.

Right to be recognized as a person (art. 16)

41. All citizens are entitled to be treated as persons before the law. They get equal protection. Traffic in human beings is illegal. Any acts detrimental to their dignity or reputation are illegal under the Defamation Act. 2016 (1958 A.D.). Except for special restrictions imposed by a special law, every citizen is recognized as a person.

Right to privacy (art. 17)

42. Article 22 of the Constitution stipulates that, except as provided by law, the privacy of a person, house, property, document, correspondence or information of anyone is inviolable. This provision can be seen as a measure for the implementation of the provisions of article 17 of the Covenant. Government is considering to initiate a bill in Parliament to safeguard the right to privacy provided by the Constitution.

Right to freedom of thought, conscience and religion (art. 18)

43. The Constitution in article 12 (2) (a) and the Civil Liberties Act in sections 6 and 7 guarantee citizens' freedom of thought and conscience. Article 12 of the Constitution stipulates that every citizen has the freedom to profess and practise his own religion as handed down to him from ancient times, having due regard to traditional practices. But no person can convert another person from one religion to another. Every religious denomination shall have the right to maintain its independent existence and for this purpose to manage and protect its religious places and trusts. Section 7 of the Civil Liberties Act also provides the right to religion.

44. Hence, pursuant to article 18 of the Covenant, Nepalese legislation imposes some restrictions on the exercise of this right, imperative from the viewpoint of public safety, order, health, morals, or the fundamental rights and freedoms of others.

Right to hold and express opinions without interference (art. 19)

45. Since the restoration of multi-party democracy in Nepal, society has been open and transparent. Every citizen has the right to be informed of matters of public concern. The enlargement of guarantees and the implementation of the right of Nepalese citizens to hold and freely express their opinions without interference are paramount components of and effective instruments for the implementation of the Provisions of the Constitution in their true sense. Article 16 of the Constitution provides every citizen with the right to demand and receive information on any matter of public importance. However, the law may restrict this right to the extent of safeguarding national security. This provision is pursuant to article 19(3) of the Covenant.

46. Hence, legal guarantees of the effective exercise by Nepalese citizens of the right to hold and express their opinion without interference are enshrined in the Constitution and other legislation. Article 12 (2) (a) of the Constitution explicitly provides that all citizens shall have freedom of opinion and expression. Article 13 of the Constitution concerns the press and publication rights of the citizen and provides that no news items, articles or other reading material shall be subjected to censorship. Moreover, section 6(1) of the Civil Liberties Act provides freedom of speech and publication to the citizens of Nepal.

Prohibition of propaganda for war (art. 20)

47. Nepalese legislation prohibits any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. The Charter of the United Nations has prohibited the use of force and threat of use of force. Nepal, being a member of the United Nations, is vigilant in this matter within its territory.

Right to peaceful assembly (art. 21)

48. Article 12.2 (b) of the Constitution stipulates the freedom to assemble peacefully and without arms. But reasonable restrictions can be imposed on any act which may undermine the sovereignty, integrity or law and order

situation of the Kingdom of Nepal. This clause complies with the provision of article 21 of the Covenant which stipulates that restrictions may be placed on the exercise of this right which are in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

Right to freedom of association (art. 22)

49. Article 12.2 (c) of the Constitution stipulates that all citizens are free to form unions and associations of their choice. Section 6(3) of the Civil Liberties Act also provides citizens with this right. Pursuant to article 22(2) of the Covenant, reasonable restrictions can be imposed on the exercise of this right for the protection of the sovereignty and integrity of the country, for maintaining harmonious relations between the peoples of various castes, tribes or communities and for the protection of public morality.

50. Under article 112 of the Constitution, citizens who are committed to common political objectives and programmes are entitled to form and operate political organizations or parties of their choice, to generate or cause to be generated publicity to secure support and cooperation from the general public for their objectives and programmes, and to carry out any other activity for this purpose. Any law, arrangement or decision which restricts any of these activities is considered to be inconsistent with the Constitution and is void. Similarly, such law, arrangement or decision allowing for participation or involvement of only a single political organization or party or persons having a single political ideology in the elections or in the political system of the country is also inconsistent with the Constitution and is void.

51. The Trade Union Act. 2049 (1992 A.D.) has been enacted to protect and promote the vocational and professional rights and benefits of the workers in any institution or corporation. Under section 3 of the Act workers of any institution are allowed to form trade unions for the protection of their professional interests. Under section 4, at least 50 trade unions or 5,000 workers of institutions having a similar nature can, by a contract, form a trade union association. Under section 5 at least 10 trade union associations can, by a contract, form a trade union confederation. Under section 8, a trade union is made an autonomous and a legal person or body. This Act was enacted to recognize and encourage the right of workers to form unions for the protection and promotion of their professional interest. Thus, the Nepalese Constitution and legislation guarantee that everyone has the right to freedom of association with others, including the right to form and join trade unions.

Right of men and women of marriageable age to marry (art. 23)

52. Nepalese society and the State have protected the family as the natural and fundamental unit of society. According to section 2 of the chapter on "Marriage" of the Muluki Ain, a man aged 21 and a woman aged 18 have the right to marry by mutual own consent. Under the same chapter, a marriage entered into without the free and full consent of the parties is voidable. The chapter contains appropriate steps to ensure the equality of rights and responsibilities of the parties to a marriage, during the marriage and at its

dissolution. Section 9 deals with the grounds on which polygamy is allowed. The chapter on "Husband and wife" of the Muluki Ain deals with grounds for divorce, alimony and custody of children.

Right of the child to be treated as a part of his family, society and State (art. 24)

53. According to article 9(1) of the Constitution a person who is born after the commencement of the Constitution and whose father is a citizen of Nepal at the time of his birth shall be a citizen of Nepal by descent; article 9(2) stipulates that every child who is found within the Kingdom of Nepal the whereabouts of whose parents is unknown shall, until the father of the child is traced, be deemed to be a citizen of Nepal by descent.

54. Nepalese legislation has paid substantial attention to providing every child with the right, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, to such measures of protection as are required by his status as a minor. Article 26(8) of the Constitution states that the State shall make necessary arrangements to safeguard the rights and interests of children. Moreover, the Children's Act. 2048 (1992 A.D.) provides detailed provisions in respect of the rights of children born within the territory of the Kingdom of Nepal.

Right and opportunity of every citizen to take part in public affairs directly or through his representative (art. 25)

55. Article 25 (4) of the Constitution stipulates that the chief responsibility of the State is to maintain conditions suitable to the enjoyment of the fruits of democracy through wider participation of the people in the governance of the country and by way of decentralization. The preamble to the Constitution stipulates the consolidation of the adult franchise and the widest possible participation, multi-party democracy and a parliamentary system as its primary feature and objective.

56. Under article 47 of the Constitution a citizen of Nepal having attained 25 years of age and 35 years of age, not disqualified under any law, may be a candidate for election to the House of Representatives and the National Assembly respectively. Moreover, under article 45 of the Constitution, every Nepali citizen who has attained the age of 18 is entitled to exercise his or her right of franchise. Similarly, the Local Authority Election Act, 1992 provides that every citizen after attaining the age of 18 is entitled to cast his or her vote for electing officials for the local authority.

57. Hence, each has a right to vote and to be elected, at the local or national election, by universal and adult suffrage and by secret ballot. Under the Civil Services Act. 2049 (1993 A.D.) all citizens have right to access, on general terms of equality, to public services in Nepal.

Right to equality before the law (art. 26)

58. Article 11 of the Constitution provides that all citizens are equal before the law and are entitled without any discrimination to the equal protection of the law. Article 11 (2) of the Constitution ensures that in the

application of general laws no citizen shall be discriminated against on grounds of religion, race, sex, caste, tribe or ideological conviction. Section 3 of the Civil Liberties Act also stipulates a similar right to equality before the law and equal protection of the law.

Right of minorities to enjoy their own culture, religion, etc. (art. 27)

59. Article 2 of the Constitution stipulates what constitutes the Nepalese nation in these words: "Having common aspirations and united by a bond of allegiance to national independence and the integrity of Nepal, the Nepalese people, irrespective of religion, race, caste or tribe, collectively constitute the nation."

60. The Nepali language in the Devnagari script is the language of the nation of Nepal as well as the official language. Each community residing within the Kingdom of Nepal has the right to preserve and promote its language, script and culture, and to operate schools up to the primary level in its own mother tongue for imparting education. Similarly, under article 19 of the Constitution, each person has freedom to profess and practise his own religion, and every religious denomination has the right to maintain its independent existence and for this purpose to manage and protect its religious places and trusts.

61. Hence, though the concept of minority and majority does not exist in our legal or social framework, Nepalese legislation is considerably devoted, pursuant to article 27 of the Covenant, to protecting and consolidating the right of each and every person, and of the community and denomination, to enjoy his/its own culture, profess and practise his/its own religion or to use his/its own language. Moreover, each and every citizen is equal before the law and entitled to have equal protection of the law.

- - - - -